93-840

Supreme Court, U.S.
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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1993

HOWARD L. SCOTT,

Petitioner

v.

AVON PRODUCTS, INC., et al.,

Respondents

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

I. Whether a United States Court of Appeals has jurisdiction pursuant to Title 28 §1291, U.S.C. to review on the merits massive misconduct by attorneys where a suspended attorney by the Disciplinary Board of the Supreme Court of Pennsylvania is used by respondents' attorneys to entice favorable final decisions as to each respondent through fraud and conspiracy on the district court below.

II. Whether United States Court of Appeals may dismiss an Appeal for lack of jurisdiction on the merits without first having permitted appellant to file his Brief and Appendix as provided for under Federal Rules of Appellate Procedure.

CORPORATE DISCLOSURE

THERE ARE NO PARENT COMPANIES, SUBSIDIARIES OR AFFILIATES ASSOCIATED WITH THE PETITIONER.

PARTIES TO THIS PROCEEDING

List of Plaintiffs-Appellants:

THE FABALON COMPANY, INC.
FABALON LABORATORIES, INC.
FABALON, INC.
FIRST FOUNDATION
HOWARD L. SCOTT
KAREN & WENDY SCOTT TRUST
CHARLES L. WRAGG, JR.
BEVERLY L. WRAGG

List of Respondents:

AVON PRODUCTS, INC.
UNITED GUARDIAN, INC.
FREEMAN INDUSTRIES, INC.
MARUBENI AMERICA CORPORATION
GIORGIO OF BEVERLY HILLS
MACSIL, INC.

28 U.S.C. §2403(a) may be applicable in this case

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ORDERS FROM THE COURTS BELOW

ORDER by the United States Court of Appeals for the Third Circuit to dismiss the appeal for lack of jurisdiction of the merits and dated April 28, 1993, p. A-4 app. ORDER by the United States Court of Appeals denying petition for rehearing, dated May 28, 1993, p. A-2 app. ORDER by the United States District Court for the Eastern District of Pennsylvania to dismiss respondent Marubeni, dated March 8, 1992, p. A-8, app. ORDER, District Court to dismiss United Guardian and Freeman Industries, dated June 15, 1992, p. A-9, app. ORDER, District Court granting summary judgment to Avon Products, Giorgio of Beverly Hills and Macsil, dated July 7, 1992, p. A-12, app. ORDER this Court for extension to Oct. 25, 1993, p. A-1, app.

JURISDICTION

Jurisdiction in the U. S. Court of Appeals is founded pursuant to Title 28, §1291 U.S.C. and in the U.S. District Court under Sections 1338, 1332 and 1331, Title 28, U.S.C. This Court's Jurisdiction is invoked under Title 28, §1254(1). U.S.C.

STATUTORY PROVISIONS INVOLVED

Section 1291, Title 28, U.S.C is set forth in the Appendix at page A-5 for review of Final Decisions of District Courts.

Rule 12(b), Federal Rules of Appellate Procedure for notification of Briefing and Scheduling. App. p. A-26.

STATEMENT OF THE CASE

Declaration of Howard L. Scott who stands before this honrorable court pro se. Now Howard L. Scott here do declare and swear and subject to all the penalties for perjury under Title 28, U.S.C. §1746 that each and every averment made herein is true.

AS TO RESPONDENT MARUBENI: At page A-8 in the Appendix there is a district court's ORDER. This ORDER is a fraud. The order dismisses Marubeni since the court believes there is a settlement. No such settlement was ever reached. Gregory H. Wheeler who was attorney for plaintiffs got together with Marubeni's attorney and appeared before the court and both fraudulently told the court a settlement had been made with Marubeni in order to get the court to dismiss Marubeni. No such settlement exist even today. It is important to note that Gregory H. Wheeler at this time had been recommended suspended, since suspended, by the Disciplinary Board of the Supreme Court of Pennsylvania. See the Disciplinary Board's Report on Mr. Wheeler at page A-13, Appendix.

AS TO RESPONDENTS UNITED GUARDIAN AND FREEMAN INDUSTRIES: The ORDER at page A-9, app to dismiss United and Freeman is a fraud on

the district court. Vernita C. Williams, Esq. by the district court's ORDER at page A-7, app, is attorney for plaintiffs. But the suspended Gregory H. Wheeler in the Transcript, page A-21, app, appeared with attorneys for United and Freeman and lied to the court that plaintiffs would not sign a settlement agreement and thereby getting the court to dismiss United and Freeman. It was agreed that once the settlemant agreement was completed that it would be signed on the campus of Widener University, page A-28, app. No such settlement agreement was completed for signature by attorneys. The ORDER at page A-9, app, is a conspiracy and fraud on the Court by the suspended Gregory H. Wheeler and attorneys for respondents United and Freeman.

AS TO RESPONDENT MACSIL: The suspended Gregory H. Wheeler granting judgment to Macsil at page A-20, lines 5 to 15 in the Transcript is a clear fraud and conspiracy on the Court by both Mr. Wheeler and attorney for Macsil. The Court said in the Transcript at page A-17, line 18, app, that plaintiffs' attorney Vernita C. Williams, Esq. that he had spoken to plaintiffs attorney and she would not be present. Gregory H. Wheeler represented no one. The ORDER granting summary judgment to Macsil is a clear fraud and conspiracy by Mr. Wheeler and attorney for Macsil on the court. ORDER is located at page A-12, app.

AS TO RESPONDENT GIORGIO: At page A-20, line 36. app, in the Transcript Mr. Wheeler lied to the court that he was granting judgment to Giorgio. Mr. Wheeler was not counsel for anyone. The ORDER at page A-12, in the appendix granting summary judgment to Giorgio is a fraud on the court.

AS TO RESPONDENT AVON: It is highly important to note that all respondents filed memoranda before the district court to force plaintiffs to retain the suspended Gregory H. Wheeler. See respondent's memorandum at page A-25 in the Appendix. So in affect, Gregory H. Wheeler was attorney for respondents. A conspiracy and fraud on the district court by Mr.

Wheeler and attorney for Avon resulted in the ORDER at page A-12, app, granting summary judgment to Avon.

AS TO WHETHER APPELLANT HAVE A RIGHT TO FILE HIS BRIEF AND APPENDIX ON APPEAL:

Rule 12(b), Federal Rules of Appellate Procedure provide that notification shall be on the filing of record on appeal and thereby giving Briefing and Scheduling Orders. The Court of Appeals below at page A-4, app, shows the petitioner in his appeal No. 92-2115 received "No Briefing and Schedule." It is an error for a Court of Appeals not to establish Briefing and Scheduling Orders on timely filed appeals.

The United States Court of Appeals pursuant to Section 1291, Title 28, U.S.C. have full authority to review final decision of the district court where fraud and conspiracy on that court is involved as to each respondent.

This court should grant certiorari here to explicitly rule that United States Court of Appeals pursuant to §1291, Title 28, U.S.C. have jurisdiction to rule on the merits of attorney misconduct and that timely filed appeals in a United States Court of Appeals should be entitled to Briefing & Scheduling Orders as provided by Rule 12(b), Federal Rules of Appellate Procedure.

CONCLUSION

For the reasons set forth above, a writ of certiorari should issue to review the ORDERS of the Courts below and the associated attorneys misconduct thereto, and or to issue any other such orders this court considers necessary.

Respectfully submitted,

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